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THE MAUIAN HOTEL, LLC

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

MARIA B. ESTRADA,

Plaintiff

vs.

THE MAUIAN HOTEL, LLC; TAGA CORPORATION dba THE MAUIAN HOTEL; 19 KAMAKA, LLC; JOHN DOES 1-5; JANE DOES 1-5; DOE CORPORATIONS 1-5; DOE PARTNERSHIPS 1-5; DOE ENTITIES 1-5; and DOE GOVERNMENTAL UNITS 1-5;

Defendants.

CIVIL NO.

(Non-Motor Vehicle Tort)

DEFENDANT THE MAUIAN HOTEL, LLC'S NOTICE OF REMOVAL; DECLARATION OF COUNSEL; EXHIBIT "A"; CERTIFICATE OF SERVICE

Trial date not set

DEFENDANT THE MAUIAN HOTEL, LLC'S NOTICE OF REMOVAL

TO: THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII:

1. Plaintiff MARIA B. ESTRADA (Plaintiff) is a citizen of the state of Maryland.
2. Defendant THE MAUIAN HOTEL, LLC (the "Mauian") is and was at all times relevant hereto, including without limitation the date on which Plaintiff commenced the instant action, a Utah Limited Liability Company, who's sole member is Gates Group Holding Company, Inc., a Utah corporation with its principal place of business in the State of Utah.
3. Defendant 19 KAMAKA, LLC ("19 Kamaka") is and was at all times relevant hereto, including without limitation the date on which Plaintiff commenced the instant action, a Utah Limited Liability Company, who's sole member is Gates Group Real Estate Holding Company, LLC – also a Utah Limited Liability Company, whose sole member is Kevin P. Gates, a citizen of the State of Nevada.
4. Defendant TAGA CORPORATION (improperly identified as TAGA CORPORATION dba The MAUIAN HOTEL) was a Utah corporation, with its principal place of business in the State of Utah, tasked with managing 19 Kamaka.

On February 6, 2020, TAGA CORPORATION merged with Gates Group Holding Company, Inc., a Utah corporation with its principal place of business in the State of Utah. Gates Group Holding Company, Inc. was the survivor of the merger and the name TAGA CORPORATION is no longer in use.

5. On April 9, 2019, Plaintiff filed a Complaint against Defendants in Civil No. 2CC-19-1000126 in the Circuit Court of the Second Circuit, State of Hawaii (the “Complaint”), Exhibit “A.” The Complaint was dismissed by the court on May 18, 2020 in accordance with Rule 28 of the Hawaii Rules of the Circuit Courts of the State of Hawaii (HRCC) for want of service. The Rule 28 dismissal was set aside on February 16, 2021.

6. There is complete diversity of citizenship between Plaintiff and Defendants.

7. The Complaint includes claims for negligence, failure to maintain premises, failure to warn, failure to take necessary precautions, and failure to aid. The Complaint also alleges affirmative acts and/or omissions, strict liability, breach of warranty, gross negligence, reckless and/or willful and wanton conduct and public nuisance. Plaintiff is seeking compensatory damages for injuries suffered allegedly cause by the Defendants acts, including a surgery. Plaintiff’s counsel recently provided medical records inclusive of medical billings detailing

over \$42,000 in special damages. In addition, Plaintiff has alleged that she may have a claim for lost wages as well as for general damages for pain and suffering. Accordingly, the matter in controversy in this case is in excess of \$75,000.

8. This Court thus has original jurisdiction over this action pursuant 28 U.S.C. § 1332 (diversity of citizenship).

9. This Notice of Removal is made pursuant to 28 U.S.C. § 1441 and 1446. Removal is timely pursuant to 28 U.S.C. § 1446 (b)(1) because the Mauian received a copy of the summons and complaint on July 9th, 2021 and the Mauian files this notice of removal within 30 days of service.

10. This Notice of Removal is proper under 28 U.S.C. § 1441 (b)(2)(A) as the Mauian is the only Defendant who was properly served.

11. Pursuant to 28 U.S.C. § 1446(a), true and accurate copies of all pleadings in this action are appended hereto as Exhibit “A.”

WHEREFORE, Defendant prays that the above-entitled action be removed from the Circuit Court of the Second Circuit, State of Hawaii, to the United States District Court for the District of Hawaii.

DATED: Honolulu, Hawaii, August 5, 2021.

/s/ Katie L. Smith
RICHARD B. MILLER
KATIE L. SMITH

Attorneys for Defendants
THE MAUIAN HOTEL, LLC

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Plaintiff

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DECLARATION OF COUNSEL

Trial date not set

DECLARATION OF COUNSEL

I, KATIE L. SMITH, pursuant to Rule 7.5 of the Local Rules of Practice for the United States District Court for the District of Hawaii, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of Hawaii, and I make this declaration on my personal knowledge and would be competent to testify on the matters stated herein.

2. This Declaration is submitted in support of Defendant The Mauian Hotel, LLC's Notice of Removal.

3. Attached hereto as Exhibit A are true and correct copies of the pleadings in the subject action, Maria B. Estrada v. The Mauian Hotel, LLC, et al., Civil No. 2CC-19-1000126, filed in the Circuit Court for the Second Circuit, State of Hawaii.

I declare under penalty of law that the foregoing is true and correct to the best of my knowledge and belief.

Executed in Honolulu, Hawaii, August 5, 2021.

/s/ Katie L. Smith
KATIE L. SMITH